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December 17, 2003

Hon. Maura Corrigan  
Chief Justice  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

Adm File Nos. 2002-06  
2003-02

Dear Justice Corrigan:

I am writing to express my opposition to the proposed amendments to Rule 2 of Rules for the Board of Law Examiners. I believe that the "LLM exception" should be retained as written.

Although I have an Juris Doctorate from an ABA accredited law school, I've met many attorneys who have been admitted under the LLM exception. Most of these individuals are persons who have earned JDs or LLBs from foreign law schools which are fully accredited. These individuals are bright, articulate, and fully knowledgeable about the law.<sup>1</sup>

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THE CHIEF JUSTICE

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<sup>1</sup>My "of counsel" – a graduate of Wayne State Law School and the University of London – currently teaches New York bar preparation classes in London, England. I've had the opportunity to discuss the matter with him and this is his opinion as well.

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A large percentage of these professionals are Canadians.<sup>2</sup> Many individuals with Canadian LLBs (which are graduate degrees despite their nomenclature) will attend an LLM program at the University of Detroit and take the Michigan bar. They have the same exposure to US law as any graduate of the joint degree program offered by the University of Detroit and University of Windsor. The only difference between the former and the latter is the order in which they took their classes.

New York permits candidates to sit their bar examination based solely on legal training abroad, and there is nothing to suggest that these individuals do not perform as well as graduates of US law schools. One of my very best friends is a graduate of the University of London (King's College) and University of Paris (Sorbonne). She recently passed the New York Bar examination and is fully licensed to practice law in that state. I fail to see how such an individual (particularly with the benefit of an LLM degree) would not be qualified to practice law in Michigan.

If Michigan were to adopt any restrictions on the use of LLMs as a manner of admission to the Michigan Bar, it should do so by requiring the applicant to complete specific courses in that program. A good example of such a rule is Pennsylvania Board of Law Examiners Rule 205.<sup>3</sup>

Making a foreign law school graduate completely retake his/her legal training without regard to the reputation of the school attended or the similarities of the body of law between the two countries could arguably violate the North American Free Trade Agreement.<sup>4</sup> Arguments

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<sup>2</sup>In evaluating the similarity between American and Canadian programs, many jurisdictions have admitted Canadians without additional education. See, e.g. Application of Collins-Bazant, 578 N.W.2d 38 (Neb. 1998) (finding that the Nebraska Board of Law Examiners abused its discretion in not waiving state requirement that applicant be a graduate of an ABA accredited school as applied to a Canadian law school graduate); Jia v Board of Law Examiners, 427 Mass 777, 696 NE2d 131 (1998) (Appendix A) (listing Canadian law school programs which Massachusetts automatically accepts)

<sup>3</sup>Available on the web at  
[http://www.pabarexam.org/Admission\\_Rules/rules\\_and\\_regulations/205.htm](http://www.pabarexam.org/Admission_Rules/rules_and_regulations/205.htm).

<sup>4</sup>Massachusetts permits individuals who have the substantial equivalent of an American legal education to be admitted to practice in their state. According to Jia v Board of Law Examiners, 427 Mass 777, 696 NE2d 131 (1998): "The touchstone of that requirement is an education (whether by formal instruction or by practice in an American or other common-law jurisdiction) in the fundamentals of American law--constitutional, common and statutory."

concerning the invalidity of such procedures are detailed in an article by Amy D. Ronner and Dennis J. O'Connor, entitled "Good Fences Make Bad Neighbors: Is the North American Free Trade Agreement a Lie for Lawyers?" 32 U. Miami Inter-Am. L. Rev. 437 (2001). That same article is generally critical of the ABA's Section of Legal Education and Admissions to the Bar for inflating the requirements for legal education in a manner designed to keep foreign attorneys outside of the bar. This criticism, far from being just the opinion of those individuals, is shared by prominent members of the legal community. Justice Abrahamson of the Wisconsin Supreme Court (a former member of the ABA Section for ten years) wrote:

The council of that Section plays a major role in approving American law schools. Having been a member of the council of the Section for approximately 10 years, I have a high regard for its work and for its members. I believe, however, that its rules keeping foreign-trained individuals from access to state bar examinations are too narrow and rigid; they are not suited to the global economy in which we now live. In recognition of the rules' deficiencies, a number of states that generally require an ABA-approved legal education have made exceptions, allowing certain qualified foreign-trained law graduates to sit for their state bar examinations

Matter of Altshuler, 171 Wis.2d 1, 490 N.W.2d 1 (1992) (Abrahamson, J dissenting).

Consistent with the general desire to remove obstacles to the free flow of goods and services, a number of foreign jurisdictions are permitting American attorneys to be admitted to their bar with minimal retraining or no retraining.<sup>5</sup> Michigan should honor this trend and not erect new obstacles.

While my focus has thus far been on foreign law school graduates seeking their first license in the state of Michigan, this rule will also be employed to keep lawyers from practicing law in Michigan even if they have been admitted in another state for a number of years and have had

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Relying on this principle, the Jia Court noted that there was a good reason to "evaluate differently graduates of law schools in countries whose jurisprudence rests in whole or in part on the English common-law tradition because they share a tradition similar to ours." The proposed modification makes no allowance for this.

<sup>5</sup>See, e.g. Mark Peter Stevens, "Cross-border Licensure Admissions Process for American Lawyers in England, Australia, and Hong Kong", 82 Mich Bar J 20 (2003). See also Chen v. Board of Law Examiners, 509 N.W.2d 770 n.2 (Mich., 1993) (Levin, J. dissenting).

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proven their ability to practice law in that forum. While there is no doubt that Michigan is not required to accept the judgment of another state,<sup>6</sup> a number of years of distinguished practice in another jurisdiction should certainly be treated as strong evidence of that individual's ability to grasp the core concepts of American law. The proposed rule makes no allowance for this.

For these reasons, I oppose the proposed amendment to Rule 2 of the Rules for the Board of Law Examiners.

Yours very truly,



Stuart G. Friedman  
Attorney at Law

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<sup>6</sup>Jia, supra.